



# California Fair Political Practices Commission

December 30, 1985

James C. Eller, Manager  
California Farm Bureau Federation  
1127 11th Street, Suite 626  
Sacramento, CA 95814

Re: FPPC No. A-85-265

Dear Mr. Eller:

This is in reply to your letter to John Keplinger dated December 9, 1985, concerning the audit of J. Roy Gabriel, the California Farm Bureau Federation's lobbyist. You indicated that Robert Perna, the FTB auditor who reviewed Mr. Gabriel's records, suggested that the time spent by Mr. Gabriel in certain activities should have been included for the purpose of determining the amount of compensation received by Mr. Gabriel for lobbying activity. You have asked us to review the activities and determine whether they are the type of activities which should have been included in computing Mr. Gabriel's salary.

Initially, I would like to clarify that the types of activities which must be counted for the purpose of qualifying as a lobbyist are different from the types of activities which must be reported by a person who has qualified as a lobbyist and is filing quarterly reports. In your letter, you referred to Part III of the FPPC "Information Manual on Lobbying Provisions," and indicated that the activities in question do not appear to be of the type described in Part III. However, Part III of the manual defines who must file reports under the lobbying provisions, and provides a definition of a lobbyist. The examples in Part III illustrate how to calculate "compensation" and "contacts" for the purpose of qualifying as a lobbyist. Therefore, Part III of the manual is not applicable for the purpose of determining which activities of a registered lobbyist must be reported on a quarterly report.

With regard to the types of activities which must be included for the purpose of allocating salary, Gov. Code Section 86107(a) provides that lobbyists must report all payments received:

in consideration for or directly or indirectly  
in support of or in connection with influencing  
legislative or administrative action.

This very broad definition of the types of payments which must be reported as compensation by a lobbyist includes compensation received in connection with the activities described in items (1) through (5) of your letter:

- (1) Conversations with Farm Bureau members on any legislative or regulatory activity is reportable as lobbying time, even if the bill or activity is, or may be, of no interest to us, or the conversation is for information only.
- (2) Any reading of newsletters, mail or other information which discusses legislative or administrative activity must be logged as lobby time even though no legislation or regulatory activity was being promoted or influenced.
- (3) The reading of a legislative bill or regulatory proposal must be logged as lobby time even if the lobbyist concludes, after reading the bill or proposal, that Farm Bureau has no interest in it.
- (4) The time spent traveling to and from a legislative hearing, a meeting with state agency personnel, or Farm Bureau members (if the purpose was to discuss legislation or regulations) must be logged as lobby time.
- (5) Research on legislation or a regulatory proposal must be logged as lobby time even if the result of that research is that we take no position on the proposal.

With regard to verification of non-lobbying time (Item (5) of your letter), FPPC regulation 2 Cal. Adm. Code Section 18615(c) provides:

Recording Receipts. A lobbyist shall promptly post into the cash receipts journal all receipts (including salaries, fees, advances and reimbursements) to the extent that they are received in connection with his or her activities as a lobbyist. Receipts partially in connection with lobbyist activity may be allocated by any reasonable accounting method provided that the method is described in the lobbyist's cash receipts journal or in some other record maintained by the lobbyist.

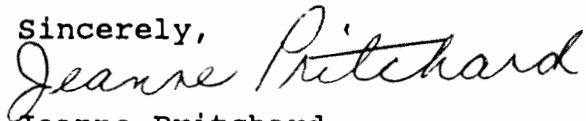
Lobbyists are not required to keep records of time spent in non-lobbying activities. The auditor, however, may request information regarding the non-lobbying activities for the purpose of verifying that such activities are not reportable, and for verifying the actual hours spent in lobbying activities.

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With regard to allocating a portion of vacation time as reportable compensation in connection with lobbying (Item (7) of your letter), the Commission has determined that, as a general rule, vacation time is a "routine fringe benefit" pursuant to FPPC regulation 2 Cal. Adm. Code Section 18616(b)(1) and, therefore, does not have to be allocated or reported as compensation for lobbying activity. Of course, any vacation time or any other benefit which is in lieu of compensation for lobbying, must be reported.

I hope this clarifies the proper method of reporting payments to a lobbyist. Please call the Technical Assistance and Analysis Division if you have questions.

Sincerely,



Jeanne Pritchard  
Chief, Technical Assistance  
& Analysis Division

JK:JP:kt

cc: Bob Perna  
Political Reform Audit Division  
Franchise Tax Board

# CALIFORNIA FARM BUREAU FEDERATION



## PUBLIC AFFAIRS DIVISION

JAMES C. ELLER, Manager  
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December 9, 1985

Chairman  
Fair Political Practices  
Commission  
P.O. Box 807  
Sacramento, California 95804

Dear Mr. Chairman:

On Friday, December 6, 1985 Mr. Robert Perna, Political Reform Auditor with the Franchise Tax Board, audited the 1984 records of Mr. J. Roy Gabriel. Mr. Gabriel works for me in the Public Affairs Division of the California Farm Bureau Federation.

I sat in on a portion of that audit, and during the conversation with Mr. Perna, he outlined several reporting requirements. Mr. Perna suggested that:

- (1) Conversations with Farm Bureau members on any legislative or regulatory activity is reportable as lobbying time, even if the bill or activity is, or may be, of no interest to us, or the conversation is for information only.
- (2) Any reading of newsletters, mail or other information which discusses legislative or administrative activity must be logged as lobby time even though no legislation or regulatory activity was being promoted or influenced.
- (3) The reading of a legislative bill or regulatory proposal must be logged as lobby time even if the lobbyist concludes, after reading the bill or proposal, that Farm Bureau has no interest in it.
- (4) The time spent traveling to and from a legislative hearing, a meeting with state agency personnel, or Farm Bureau members (if the purpose was to discuss legislation or regulations) must be logged as lobby time.
- (5) Research on legislation or a regulatory proposal must be logged as lobby time even if the result of that research is that we take no position on the proposal.
- (6) Records of non-lobby time are not needed, but the lobbyist must be able to verify that the hours spent in non-lobbying activities were, in fact, non-lobbying. Mr. Perna spent substantial time attempting to determine, on an hour-to-hour basis, exactly how non-lobbying time was being spent by Mr. Gabriel.

Chairman

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- (7) A percentage of vacation time must be allocated as lobby time because that vacation was earned as a result of lobbying activities.

The reporting required by Mr. Perna appears to go well beyond the reporting requirements contained in the Information Manual prepared by the Commission, and well beyond any reporting requirements required by previous auditors during the last 10 years. The definition of "influencing legislative or administrative action" in Section III of the manual, while somewhat open-ended, makes no suggestion that the lobbyist report in the manner required by Mr. Perna. Further, in the examples provided in Section III as to who must file, no indication is given that the activities outlined by Mr. Perna are reportable.

Mr. Perna stated that, with the exception of number 7, his interpretation of the law is backed up by FPPC technicians Mary Ann Cusager and Jeannie Pritchard.

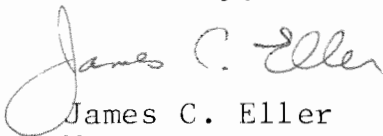
Farm Bureau lobbyists have been dutifully completing reports under the law for a decade. We have attended seminars, asked specific questions on most of the issues outlined above, and have been assured by both FPPC staff and auditors that such reporting required by Mr. Perna was unnecessary. At least one auditor has suggested that to include this time would be grossly overreporting lobbying activities.

Frankly, my faith is shaken in the law and its application as a result of Mr. Perna's audit. In order to comply with his reporting requirements, the activities of virtually every hour of every working day must be recorded in order to establish the accuracy of the time logged as lobbying. This does not seem to be within either the letter or spirit of the law.

I respectfully request that someone beyond the technician level within the commission respond to this letter. I would ask that you respond to each of the seven points outlined above, noting whether or not they are lobbying activities, and if they are, the specific sections of law or regulations which are applicable.

Your prompt response would be greatly appreciated.

Sincerely,



James C. Eller  
Manager

JCE/rsf